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Dated: 2/27/06

Signature:

Joanne Ryan
(Joanne Ryan)Docket No.: BBNT-P02-368
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Letters Patent of:
Sanchez et al.

Patent No.: 6981158

Issued: December 27, 2005

For: METHOD AND APPARATUS FOR TRACING
PACKETS

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

MS Post Issue
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Adjustment date: 06/21/2006 CKHLOK
03/03/2006 TBESHAH2 00000008 181945 6981158
01 FC:1456 400.00 CR

06/21/2006 CKHLOK 00000003 181945 6981158

01 FC:1455 200.00 DA

Dear Sir:

Applicants hereby request reconsideration of the patent term adjustment granted to Applicants at issuance of the patent. At issuance, the patent was granted a 912 day patent term adjustment. The correct patent term adjustment is 1032 days.

On January 13, 2005, subsequent to the mailing of the Notice of Allowance on January 6, 2005, Applicants submitted a Supplementary Information Disclosure Statement (the "SIDS") disclosing references identified to the Applicants in an International Search Report related to the application. The Patent Office reduced the patent term adjustment applied to the patent by 120 days based on this submission.

However, according to 37 C.F.R. § 1.704(d),

a paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any

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individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement.

Applicants submit that the SIDS filed on January 13, 2005 meets this criteria.

The SIDS was filed in compliance with 37 CFR §§ 1.97 and 1.98. Applicants filed the SIDS with the belief that its filing was prior to the issuance of a Notice of Allowance. Applicants first became aware of the issuance of the Notice of Allowance on January 14, 2005, as evidenced by the date stamp applied by the Applicants' representatives, one day after the SIDS was filed. Thus, while the SIDS included a statement satisfying § 1.97(e), the SIDS did not explicitly include the fee set forth in § 1.97. However, Applicants, in the SIDS, specifically requested payment be withdrawn from deposit account 18-1945 should any fees have been due. Thus, Applicants submit that the SIDS complied with 37 C.F.R. §§ 1.97 and 1.98.

In addition, the SIDS included a statement, as required by § 1.704(d), that "each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement." The International Search Report, a copy of which is attached, was mailed from the European Patent Office on December 13, 2004. As indicated by the date stamps applied to the International Search Report, Applicants' representatives did not receive the International Search Report until December 28, 2004. The SIDS was filed well within 30 days of December 28, 2004.

Thus Applicants submit that the reduction of the patent term adjustment of this patent was incorrect. Applicants respectfully request that the patent term adjustment be reset to 1,032 days.

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Applicants believes no fee is due with this response other than that set forth on the attached fee transmittal. However, if a fee is due, please charge our Deposit Account No. 18-1945, under Order No. BBNT-P02-368 from which the undersigned is authorized to draw.

Dated: February 27, 2006

Respectfully submitted,

By 

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